

REMARKS**Status of the Claims**

Claims 1-27 are currently pending in the application. Of these, claims 1, 11, 21, 22, and 24-27 are independent. Claims 1, 3, 4, 9-11, 13, 14, 19, 20, and 21-26 are currently amended. These changes are believed to introduce no new matter. Thus, entry and consideration of this Amendment are respectfully requested.

Rejections under 35 U.S.C. § 101

Claims 1-26 are rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. For instance, the Examiner alleges that the claimed invention is not within the technical arts. The above amendment replaces the term “users” with “user devices” Applicant asserts that this term provides a sufficient involvement with the technical arts.

In addition, the Examiner asserts that claim 25 is directed to non-statutory subject matter because it includes program code. Applicant respectfully disagrees. This claim is directed to “a computer program product comprising a computer useable medium.” The Manual of Patent Examining Procedure (MPEP) states in Section 2106 that “a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.”

For at least the reasons set forth above, Applicant respectfully requests that the rejections under 35 U.S.C. § 101 be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 1-27 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,023,686 to Brown (“Brown”) in view of U.S. Patent No. 5,812,545 to Liebowitz et al. (“Liebowitz”). Applicant respectfully traverses this rejection.

The present invention involves providing content to a plurality of users. In particular, the claims recite features in which the transmission of a content item is based on a total collective payment. For instance, independent claims 1, 11, and 21 recite features involving the transmission of a content item at a quality level that is based on a total collective payment. Also, independent claims 22, 24, and 25 recite features that involve the scheduling of a content item for transmission when a total collective payment is greater than or equal to a collective earning threshold. Further, independent claims 26 and 27 recite features involving the transmission of a content item in a manner that is based on a comparison between a total collective payment and a collective earning threshold

Brown is directed to “an on-line bidding session that permits individual bidders to pool their bids in order to accumulate a collective bid for a property” (column 3, lines 14-17). Throughout Brown, this bidding system is described in the context of an auction. Thus, Brown does not appear to involve content delivery, but rather auctions.

Thus, Brown fails to disclose the claimed features involving content item transmission based on a total collective payment. The Examiner expresses this shortcoming of Brown on page 4 of the Office Action.

Liebowitz fails to overcome the aforementioned deficiencies of Brown. Liebowitz involves a full mesh satellite-based multimedia networking system. In rejecting the claims, the Examiner relies on Liebowitz at column 19, lines 13-40. This passage in Liebowitz

involves a rate table reflecting prices for network usage. In particular, this table includes “flat rates, usage rates for voice data and video services, promotional rates and customized rate tables according to countries or customer accounts.”

This passage states that “two sets of rates for voice calls are provided based on the quality of calls such as calls using 8 or 16 Kbps circuits.” However, such calls are not a content item delivered to a plurality of users. Moreover, these rates appear to be in the form of an individual contribution and not a total collective payment. Therefore, for at least these reasons, Brown in view of Liebowitz does not appear to teach or suggest the features of the claimed invention.

CONCLUSION

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

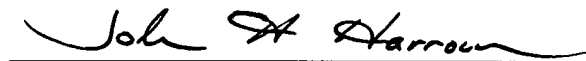
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 4208-4076.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4208-4076.

Respectfully submitted,
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